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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,433	03/03/2004	Jonathan DeLine	U02-0189-35	2432
24239 7590 03/18/2009 MOORE & VAN ALLEN PLLC P.O. BOX 13706 Research Triangle Park, NC 27709				
EXAMINER				
TORRES, MARCOS L				
ART UNIT		PAPER NUMBER		
2617				
MAIL DATE		DELIVERY MODE		
03/18/2009		PAPER		

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/708,433
Filing Date: March 03, 2004
Appellant(s): DELINE, JONATHAN

Michael G. Johnson
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12-1-08 appealing from the Office action mailed 8-10-06.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

20020158999	Shima	10-2002
EP 1298890	Mizuta	05-1994

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shima in view of Mizuta (EP 1298890).

As to claim 4, Shima discloses a mobile terminal for use in a wireless communication system, comprising: a housing having an inner major surface (see fig. 4a, item 22a, item and an opposed outer major surface and enclosing electronic components operable to transmit and receive telecommunication signals (see fig. 4b, item 22), the inner major surface of the housing including means for providing user input to the mobile terminal (see fig. 4a, item 3); a display having an inner major surface and an opposed outer major surface and electrically connected to the

electronic components in the housing (see fig. 12, item 51), the display movably mounted to the housing for movement from a first position where the inner major surface of the display is opposite the inner major surface of the housing for at least partially concealing the user input means of the housing and a second position such that the user input means of the housing is exposed and accessible to the user; and a flip cover having an inner major surface and an opposed outer major surface and electrically connected to the electronic components in the housing, the inner major surface of the flip cover including means for providing user input to the mobile terminal, the flip cover pivotally mounted to the housing and movable between a closed position where the inner major surface of the flip cover is opposite the outer major surface of the display when the display is in the first position and an open position, the flip cover being sized to substantially conceal the outer major surface of the display and the inner major surface of the housing when in the closed position (see fig. 12; par. 0013-0015, 0093-0096), further comprising means for rotating the display (see fig. 12, item 63). Shima does not specifically disclose rotating the display interposed between the display and the pivotal mounting, the rotating means allowing the display to rotate in a direction perpendicular to the axis of the pivotal mounting for positioning one of the inner major surface or the outer major surface of the display against the inner major surface of the housing or the flip cover. In an analogous art, Mizuta discloses rotating the display interposed between the display and the pivotal mounting, the rotating means allowing the display to rotate in a direction perpendicular to the axis of the pivotal mounting for positioning one of the

inner major surface or the outer major surface of the display against the inner major surface of the housing or the flip cover (see fig. 4a, 4b), thereby permitting to move the screen in the desired position. Therefore, it would have been obvious to one of the ordinary skill in the art at the time of invention to combine these teachings for the simple purpose of easier view to the user.

As to claim 5, Mizuta discloses a mobile terminal for use in a wireless communication system, further comprising a hinge connecting the housing, the flip cover, and the display, the hinge providing the axis of movement of the housing, the flip cover and the display, and wherein the display rotating means is a movable support attached to the hinge and to an edge of the display (see fig. 4a, 4b).

As to claim 6-9, Shima discloses a mobile terminal for use in a wireless communication system, comprising: a housing having an inner major surface (see fig. 4a, item 22a, item and an opposed outer major surface and enclosing electronic components operable to transmit and receive telecommunication signals (see fig. 4b, item 22), the inner major surface of the housing including means for providing user input to the mobile terminal (see fig. 4a, item 3); a display having an inner major surface and an opposed outer major surface and electrically connected to the electronic components in the housing (see fig. 12, item 51), the display movably mounted to the housing for movement from a first position where the inner major surface of the display is opposite the inner major surface of the housing for at least partially concealing the user input means of the housing and a second position such that the user input means of the housing is exposed and accessible to the user; and a flip cover having an inner major

surface and an opposed outer major surface and electrically connected to the electronic components in the housing, the inner major surface of the flip cover including means for providing user input to the mobile terminal, the flip cover pivotally mounted to the housing and movable between a closed position where the inner major surface of the flip cover is opposite the outer major surface of the display when the display is in the first position and an open position, the flip cover being sized to substantially conceal the outer major surface of the display and the inner major surface of the housing when in the closed position (see fig. 12; par. 0013-0015, 0093-0096). Mizuta discloses a mobile terminal for use in a wireless communication system, further comprising a rotational joint mounted between the housing and the display for allowing the display to rotate in a plane about an axis perpendicular longitudinal axis of the housing, wherein the display is mounted to the housing at a position along the longitudinal axis of the housing, wherein the rotational joint allows the display to rotate by at least about 90 degrees (see fig. 4a, 4b).

As to claim 10, Shima discloses a mobile terminal for use in a wireless communication system as recited in claim 6, wherein the user input means of the housing and the flip cover comprises a keypad apparatus disposed within the housing and the flip cover, the keypad apparatus also electrically connected to the electronic components in the housing so that tactile input can be received (see par. 0096).

(10) Response to Argument

Appellant asserts that one of the ordinary skills in the art would not be motivated by Shima to look to Mizuta to provide a rotational joint for the display. Shima is directed

to help the user to easily view the information in the display screen (see par. 0009). Also, Mizuta is directed to the same field of helping the user to easily view the information in the display (see par. 0021). Because both references are analogous and directed to the same field of endeavor, it would be obvious to one of the ordinary skills in the art at the time of the invention to add the hinge of Mizuta to the Shima device to add additional movement to the display and facilitate the view to the user as suggested by Mizuta in par. 0021.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Appellant also asserts that rejection in record fails to disclose "a mobile terminal comprising a housing, a display movably mounted to the housing for movement relative to the housing, and a flip cover pivotally mounted to the housing and movable relative to the housing and the display. Means for rotating the display, such as a rotational joint, is provided between the housing and the display for allowing the display to rotate." As seen in figs. 4 and 12 of the primary reference, Shima discloses a mobile terminal comprising a housing (see fig. 4a, item 22), a display movably mounted to the housing

for movement relative to the housing (see fig. 4a, item 1, fig. 12, item 61), and a flip cover pivotally mounted to the housing and movable relative to the housing and the display (see fig. 12, item 62b or 62a). Means for rotating the display, such as a rotational joint (see fig. 12, item 63), is provided between the housing and the display for allowing the display to rotate. In Shima the display only rotate as shown in fig. 12 with the letter A. Adding the rotational joint of Mizuta will add the additional rotation in the other axis as shown in fig. 4 with the arrows. Thereby, the combination of Shima and Mizuta shows all the teachings of the present application as claimed.

Also, the combination of Shima and Mizuta disclose all the limitations of the dependent claims 5 and 7-10 as shown in the office action mailed 8-10-06. For the above mentioned reasons the examiner believes the rejection should be maintained.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Marcos L Torres/

Examiner, Art Unit 2617

Conferees:

/George Eng/

Supervisory Patent Examiner, Art Unit 2617

/NICK CORSARO/

Supervisory Patent Examiner, Art Unit 2617